

**Remarks/Arguments**

In the Non-final Office Action dated March 15, 2010, it is noted that claims 3-5, 12-14, and 19-21 are pending in this application; and that all the pending claims stand rejected under 35 U.S.C. §103.

No claim amendments are made at this time.

***Cited Art***

The following references have been cited and applied in the present Office Action: U.S. Patent Application Publication No. 2003/0227567 to Plotnick et al. (hereinafter referenced as "*Plotnick*"); U.S. Patent Application Publication No. 2002/0100041 to Rosenberg et al. (hereinafter referenced as "*Rosenberg*"); U.S. Patent 7,061,549 to Mabon (hereinafter referenced as "*Mabon*"); U.S. Patent 6,002,443 to Iggulden (hereinafter referenced as "*Iggulden*"); U.S. Patent 7,177,881 to Schwesig et al. (hereinafter "*Schwesig*"); U.S. Patent 6,907,137 to Ruehl (hereinafter "*Ruehl*"); and U.S. Patent Application Publication No. 2002/0144262 to Plotnick et al. (hereinafter referenced as "*Plotnick II*").

***Rejection of Claims 3-5, 8, 12-14, and 17 under 35 U.S.C. §103***

Claims 3-5 and 12-14 stand rejected under 35 U.S.C. §103 as being unpatentable over Plotnick in view of Rosenberg and further in view of Mabon, and further in view of Iggulden, and further in view of Schwesig, and further in view of Ruehl. This rejection is respectfully traversed.

As noted above, claims 3 and 12 are independent claims that include substantially similar limitations discussed below. Claims 4-5 depend from claim 3 and include all the limitations of the base independent claim while introducing limitations of their own; claims 13-14 depend from claim 12 and include all the limitations of the base independent claim while introducing limitations of their own. Since the limitations discussed below are substantially present in both of claims 3 and 12, the remarks below will be understood to pertain equally to both independent claims without further repetition of qualification.

It has been admitted in the present Office Action that Plotnick, Rosenberg, Iggulden, and Mabon do not teach the limitation of “wherein when said browser mode is active and said television during download function is enabled ..., said mode switching means is activated causing said television program mode to be active until detection of completion of said download”, as defined in the claims. *See Office Action at page 5.* In an apparent attempt to cure this defect, Schwesig was added to the mosaic of references. But the reliance on Schwesig is misplaced because it fails to cure the admitted defect in the teachings of Plotnick, Rosenberg, Iggulden, and Mabon. It should also be noted that Ruehl was not proffered by the USPTO for any teachings related to the claimed limitations reproduced above.

Schwesig appears to teach an implementation that involves the use of background downloading. However, there is no teaching in Schwesig in the cited section of col. 11 or elsewhere within the reference that switching of any kind takes place from one mode to another until the download is completed. Schwesig merely states that downloading takes place in the background. In fact, Schwesig even indicates that the downloading could occur automatically when updates of media files become available. Schwesig does not appear to detect completion of the download. Switching of modes is not suggested or contemplated by Schwesig. Schwesig does not even appear to detect completion of the download as defined in the claims. Thus, Schwesig in combination with Plotnick, Rosenberg, Iggulden, Mabon, and Ruehl does not teach, show, or suggest all the limitations of independent claims 3 and 12 and the claims dependent thereon.

Even if one were to assume, for the sake of argument herein, that the combination of Plotnick, Rosenberg, Iggulden, Mabon, and Schwesig operated in the manner suggested by the Examiner in the present Office Action through page 6, an assumption with which Applicant neither agrees nor acquiesces, the addition of Ruehl to that combination of references would not cure the defects admitted in the teachings of Plotnick, Rosenberg, Iggulden, Mabon, and Schwesig already admitted by the USPTO on page 6 of the present Office Action. Moreover, the combination of Plotnick, Rosenberg, Iggulden, Mabon, Schwesig, and Ruehl would still not teach, show, or suggest the elements in independent claims 3 and 12.

Ruehl appears to switch between image modes when the transmitting side determines that the stored microscope image has changed sufficiently from a prior stored image within a particular time period. Ruehl is not concerned with download times or the observation of

download times as determining factor about when to initiate an image mode switch. Ruehl's time threshold is a measurement of elapsed time between stored images or image captures. There is no teaching and no mention in Ruehl about making a determination that the time for an image download is exceeding a threshold time. In fact, Ruehl does not even recognize a need for switching from one image mode to another image mode during or after downloading. Ruehl simply monitors the buffer for any discernible image change between a past stored image and a current stored image that occurs within a certain time period and, when the images change from each other within that time period, Ruehl initiates the switch in image modes. Ruehl does not monitor anything even remotely concerned with the download operation or the completion of the download operation to determine whether to make the switch. Thus, Ruehl in combination with Plotnick, Rosenberg, Iggulden, Mabon, and Schwesig does not teach, show, or suggest all the limitations of independent claims 3 and 12 and the claims dependent thereon.

None of the references teach the switching between the television program mode (currently active) and the interactive application mode (as the last viewed item), as defined in the claims. Mabon and Plotnick teach that switching between items within the same mode.

Plotnick appears to teach the display of television transmission signals and the display of different application program output signals. *See paragraph [0005] of Plotnick.* In paragraph [0027], Plotnick makes it very clear that the hot key initiated switching occurs only between the various applications. In Plotnick at paragraphs [0027]-[0031], it is clear that the teachings are expressly directed to shifting focus to any one of the application programs 34, 36, or 38 or to a default application program selected from application programs 34, 36, or 38. Plotnick expressly teaches the switching between different applications, which means that the switching is confined to the same mode of operation not a different mode such as the display of television transmission signals. Plotnick does not switch focus to a television transmission signal mode from his application mode or vice versa. Plotnick's last viewed list includes only entries for various applications and it does not include any entry for any television transmission signal. *See Plotnick at paragraph [0031].*

Mabon is substantially similar to Plotnick in that Mabon allows the user to create a list of channels of interest based on the time dwelt on a certain channel within a television program mode of operation. The user can then jump back to a channel in that listing at a later time. There

is no teaching or suggestion in Mabon that the list should or could contain entries for different modes other than the television mode.

Mabon and Plotnick do not suggest that their focus shifting or jumping back functions can be used to cross between modes. They teach clearly that the focus shifting and jumping back are confined within a single homogeneous mode – applications for Plotnick and television channels for Mabon. Thus, Mabon and Plotnick do not teach, show, or suggest the limitations of independent base claims 3 and 12. Rosenberg, Iggulden, Schwesig, and Ruehl do nothing to cure this defect in the teachings of Plotnick and Mabon. Thus, the combination of Plotnick, Rosenberg, Mabon, Iggulden, Schwesig, and Ruehl does not teach, show, or suggest the limitations of independent base claims 3 and 12 and the claims dependent thereon.

In light of the remarks above, it is submitted that the combination of Plotnick, Rosenberg, Mabon, Iggulden, Schwesig, and Ruehl lack fails to teach all the elements of claims 3 and 12 and the claims dependent thereon. It is believed that the elements of these claims would not have been obvious to a person of ordinary skill in the art upon a reading of Plotnick, Rosenberg, Mabon, Iggulden, Schwesig, and Ruehl, either separately or in combination. Thus, it is submitted that claims 3-5 and 12-14 are allowable under 35 U.S.C. §103. Withdrawal of this rejection is respectfully requested.

***Rejection of Claims 19-21 under 35 U.S.C. §103***

Claims 19-21 stand rejected under 35 U.S.C. §103 as being unpatentable over Plotnick in view of Rosenberg and further in view of Mabon, and further in view of Iggulden, and further in view of Plotnick II. This rejection is respectfully traversed.

The Examiner has mentioned the Schwesig reference on page 7 of the Office Action. But the Schwesig reference has not been formally applied against claims 19-21 on page 6 of the Office Action. Thus, the reference to Schwesig will be ignored in this response since it was not employed in formally rejecting these claims.

Independent claim 19 includes limitations relating to downloading and switching modes while the download is in progress similar to those found in claims 3 and 12, as discussed above. To wit, claim 19 states in part that, “said remote control signals include a television-during-download signal generated by the remote control device; when said display device is in the interactive application mode, a download is initiated, and the download has not been completed,

said mode switching means is activated causing said television program mode to be active in said display device while the download continues toward completion.” In view of this similarity with the limitation in claims 3 and 12, the remarks presented above with respect to claims 3 and 12 will be understood to apply equally herein without further repetition or qualification.

From those earlier remarks, it is clear that none of the applied references to Plotnick, Rosenberg, Mabon, and Iggulden even hint at the limitations for downloading and mode switching while a download is in progress. At page 5 of the present Office Action, it is stated that,

*“Plotnick, Rosenberg, Mabon, Iggulden are silent regarding the apparatus further comprising:*

- ...
- *wherein when said browser mode is active and said television during download function is enabled, upon a download above a threshold time being detected, said mode switching means is activated causing said television program mode to be active until detection of completion of said download.”*

In other words, contrary to the assertion on page 7 of the present Office Action, the Examiner already admits that Plotnick, Rosenberg, Mabon, and Iggulden do not teach the limitation in claims 3 and 12 that is substantially similar to the limitation found in claim 19. *See page 5 of the present Office Action.* Thus, the combination of Plotnick, Rosenberg, Mabon, and Iggulden fail to teach, show, or suggest these latter and substantially similar limitations of claim 19.

Plotnick II does not remedy the defects in the teachings of Plotnick, Rosenberg, Mabon, and Iggulden, all discussed above. Plotnick II briefly mentions that advertising opportunities exist when users are changing channels or retrieving information from a hard disk or a server. There is no mention or suggestion that there are two different operating modes. Plotnick II also fails to teach that the mode can be switched from an interactive application mode to a television program mode while a download is being completed. Plotnick II is merely adding an advertising feed to the existing television feed during channel changes or data retrieval. As such, the combination of Plotnick II with Plotnick, Rosenberg, Mabon, and Iggulden does not teach, show, or suggest all the limitations of claim 19 and the claims dependent thereon.

In light of the remarks above, it is submitted that the combination of Plotnick, Mabon, Rosenberg, Iggulden, and Plotnick II fails to teach all the elements of the amended independent

claims 19-21. It is believed that the elements of these claims would not have been obvious to a person of ordinary skill in the art upon a reading of Plotnick, Mabon, Rosenberg, Iggulden, and Plotnick II, either separately or in combination. Thus, it is submitted that claims 19-21 are allowable under 35 U.S.C. §103. Withdrawal of this rejection is respectfully requested.

### *Conclusion*

In view of the foregoing, it is respectfully submitted that all the claims pending in this patent application are in condition for allowance. Entry of this amendment, reconsideration, and allowance of all the claims are respectfully solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner contact the Applicant's attorney at (609) 734-6813, so that a mutually convenient date and time for a telephonic interview may be scheduled for resolving such issues as expeditiously as possible.

In the event there are any errors with respect to the fees for this response or any other papers related to this response, the Director is hereby given permission to charge any shortages and credit any overcharges of any fees required for this submission to Deposit Account No. 07-0832.

Respectfully submitted,

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